

INFORMATION HOTLINE

Volume 1, Issue 6

First Quarter 2007

LEGISLATION WRAP-UP

The Board of Chiropractic Examiners has authored and passed four pieces of legislation this year, with the support of the state chiropractor's association and the assistance of the Department of Health. The first was Senate Bill 18 (SB18) which updated our scope of practice. Our second was SB16 which adds the word "advertises" in our present statute that prohibits practicing without a license. SB 17 requires that all applicants submit to a state and federal criminal background investigation before application for licensure, and finally, with SB 20, the



Legislation in the books July 1, 2007

board is requiring a bachelor's degree as an additional requirement for persons applying for chiropractic licensure in the state of South Dakota.

As a regulatory board proposing new statutory changes, we are required to undergo an intense review of our proposed legislation, first by other associated boards that may be affected by the proposed legislation, and then by the Department of Health and the Governor's office. This insures that

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WELCOME JIM LAWLER, LAYMEMBER

The Board of Examiners would like to welcome Jim Lawler as the new lay-member appointed by the Governor to fill the vacated seat of Dave Kenyon. Jim and his wife Christie, formerly of Aberdeen, currently reside near

Deadwood. Jim spent several years serving in the legislature as well as working in various aspects of state health and Indian Health Services before retiring in 1992. Welcome to the Board Jim!!

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LEGISLATION CONTINUED

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our proposed changes go into the legislative process with minimal opposition and full support of all organizations involved. The legislators are much more supportive with regulatory bills, knowing that they are presented with that degree of consensus.

Three of our bills (SB 16, 17, and 20) passed easily through the whole legislative process of introduction to a Senate Committee for approval, and then onto the Senate Floor for final vote, and then through the same process on the House side of the legislature.

However, our Senate Bill 18 dealing with our scope took a different voyage. The new scope proposed basically had three components. The first was a broad description of chiropractic that was developed by the board and the SDCA legislative committee. The second part was another description of what chiropractors do in more modern terminology. The third part was a definition of manipulation and mobilization brought forward from definitions already in our rules and regulations originally adopted six years ago. As part of the process, the medical board reviewed our proposed legislation and presented concerns about our initial job description. Changes were made to allay their concerns to the first part of our proposed scope. The Department of Health and the Legislative Research Council then underwent an intense scrutiny of our proposal, as we provided them with specific rationale and data to support our proposed changes. The Governor's Office had concerns about certain language which required some changes to the second part of our proposed legislation. Updates were made and we were given the green light to proceed with the legislation. Minutes before we intro-

duced SB 18 to the Senate Health Committee, the lobbyists and members of the PT and OT associations, unexpectedly presented in opposition of our bill. Our bill was deferred for a short time so that we could iron out a compromise with these associations. The compromise affected the inclusion of our definitions in part three of our final proposed legislation. After those compromises and changes, SB 18 did pass the Senate and House sides without any opposition on both floors. The final result with Senate Bill 18, is that we do have a scope that still retains our original definition, but also includes modernized

terminology and reference to the manipulation, adjustment and mobilization procedures that we perform, which are further defined in our Rules and Regulations. While this bill is not what we originally drafted, it does provide the board with some significant changes that may help us deal with unlicensed practitioners who are performing chiropractic adjustments, and it does modernize our outdated language.



Thank you to all who worked so hard to help us through session!!

I want to thank all those who worked so hard to help us through this session. Marcia Walter, our board executive director, provided excellent administrative support in communicating with the other boards, the LRC, the Department of Health, and the Governor's office. She did an excellent job of introducing our legislation to the Senate and House Health Committees, and lobbying for passage through the Senate and House Floors. Our Board Members all spent many hours, contacting the individual members of the Senate and House, providing information and answering questions. Kathi Mueller in the Department of Health and Kevin Forsch on the Governor's staff provided support and direction for us through this whole

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LEGISLATION CONTINUED

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process. Lobbyist Jim Hood representing the SDCA, as well as individual chiropractors were critical in providing support and lobbying for these bills. Without the help that we received from everybody I mentioned above, we would not have been able to accomplish what we did this legislative session.

Are we through? Definitely not. The Board of Chiropractic Examiners will continue to strive to protect the continuing health, welfare and safety of consumers of chiropractic services by ensuring that qualified chiropractors are licensed and their practice is regulated by enforcement of updated statutes, rules, regulations, and board policies. The legislation that the Board of Examiners proposed will help us to ful-

fill our mission of protecting the public.

submitted by Robin Lecy, DC

One of the primary missions of the Board of Examiners is to protect the public, the consumers of chiropractic care in South Dakota.

CONTINUING EDUCATION UPDATE

Well, it's hard to believe but here we are in March of 2007! Remember, this is the end of the two-year education cycle. Forty hours of continuing education are due by December 31, 2007. You may have up to twenty-four hours in technique courses and the rest has to be in other areas of chiropractic such as diagnosis, nutrition, x-ray, principles and practice research. Practice management/philosophy courses are **NOT** allowed for continuing education. The ethics

and fraud course has to be completed in this two-year cycle. The State Association has this available at the spring convention in Rapid City. You can also take it on-line at www.dconline.us. If you have any questions regarding the accepted classes, you can go to our web site at www.state.sd.us/doh/chiropractic, call Marcia Walter at 605-668-9017 or via email at sdbce@iw.net.

submitted by Mark Bledsoe, DC

"PATIENT WELLNESS" CONTRACTS

Recently we have had an increase in the number of inquiries as to the legality of "Patient Wellness" contracts. There are a number of titles used but the product is primarily the same; patients sign a financial contract for a number of chiropractic services for a certain fee within a specified time period.



often these contracts are an attempt to "attract" patients to a Chiropractic Health Insurance Plan. This is in direct violation to our Rules and Regulation (ARSD 20:41:09:01) Patient Care and Charges. (A chiropractor shall attend the patient as often as necessary to insure continued fa-

Regardless of the title or language used, too

Caption describing picture or graphic.

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“PATIENT WELLNESS CONTRACTS” CONTINUED

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avorable progress, but shall avoid unnecessary visits. No charge may be made which overestimates the advice and services rendered. It is unprofessional conduct for any chiropractor to enter into a financial contract which would obligate a patient to pay for care to be rendered in the future. Simply speaking, we cannot “sell” chiropractic insurance.

Occasionally some Practice Management Industries have attempted to bypass State Chiropractic Board's rules and regulations by tweaking the language in their seminars trying to avoid making it look like a Wellness Contract. Regardless of how they try to identify the mode for Chiropractic service it still is a contract. Advanced payments are made and contracts are signed for further services obligating the patient to a set monthly or annual fee. Because these “patient locking” programs are in violation to our Regulations, they can be labeled by the insurance industry as possible fraud (providing services to the patient without clinical justification).

The Board of Examiners urges any South Dakota Chi-

ropractor who has taken a Practice Management Course which suggests such a type of patient retention program to check first with the Board before implementing it in your office. We can always have our attorney preview the proposed agreement to determine its legality.

This review process can be done in a short period of time and it will eliminate the potential problems of having to cancel these programs and reimbursing all prepaid fees to the patient.

Be cautious of the many practice management programs that are being offered. There are some that consider ethics and state laws into their seminars. However, there are also those that are more concerned with their financial success than with yours.

When in doubt check it out!

submitted by Donn Fahrendorf, DC

QUESTION AND ANSWER

Q. I want to put a coupon advertisement in the paper for individuals to bring this coupon in and they will receive a chiropractic history, exam and x-ray (if needed) for only \$40. (\$175 value.). Is this acceptable?

A. No, this type of advertising is in violation of ARSD 20:41:09:07.01 (6) advertising free or *discounted* examination or service.

Q. I have recently filed corporation papers with the Secretary of State. Do I need to notify the board?

A. Yes, per, 47-11A-13 a copy certified by the secretary of state of the articles of incorporation of any corporation formed pursuant to this chapter shall be filed with the secretary-treasurer of the Board of Chiropractic Examiners of South Dakota, together with a certified copy of all amendments thereto.

Q. I was recently certified as a DABCO. Can I advertise such?

A. Yes, ARSD 20:41:09:05 indicates a chiropractor holding a valid specialty certificate of current diplomate status may list the specialty in telephone directories, on professional stationery, and in professional listings. The listings must be approved by the board in advance, with a ruling sought by the listing organization or the individual chiropractor pursuant to chapter 20:41:02.

NEW STATUTES EFFECTIVE JULY 1, 2007**ENTITLED, An Act to prohibit advertising chiropractic services without first obtaining a license.****BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

Section 1. That § 36-5-2 be amended to read as follows:

36-5-2. Any person who advertises, practices, or attempts to practice chiropractic or who uses the title chiropractor or any word or title having a tendency to induce any person to believe that the person is a chiropractor without first having secured a license from the Board of Chiropractic Examiners or an annual license renewal from the Board of Chiropractic Examiners is guilty of a Class 1 misdemeanor.

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ENTITLED, An Act to require each applicant for licensure as a chiropractor in South Dakota or a licensee who is the subject of a disciplinary investigation to submit to a state and federal criminal background check.**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

Section 1. That chapter 36-5 be amended by adding thereto a NEW SECTION to read as follows:

Each applicant for licensure as a chiropractor, in this state shall submit to a state and federal criminal background investigation by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. Upon application, the Board of Chiropractic Examiners shall submit completed fingerprint cards to the Division of Criminal Investigation. Upon completion of the criminal background check, the Division of Criminal Investigation shall forward to the board all information obtained as a result of the criminal background check. This information shall be obtained prior to permanent licensure of the applicant. The Board of Chiropractic Examiners may require a state and federal criminal background check for any licensee who is the subject of a disciplinary investigation by the board. Failure to submit or cooperate with the criminal background investigation is grounds for denial of an application or may result in revocation of a license. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal background investigation.

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ENTITLED, An Act to revise the chiropractic scope of practice.**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

Section 1. That § 36-5-1 be amended to read as follows:

36-5-1. Chiropractic is the science of locating and removing the cause of any abnormal transmission of nerve energy including diagnostic and applied mechanical measures incident thereto. Integral to chiropractic is the treating of specific joints and articulations of the body and adjacent tissues, to influence joints or neurophysiological functions of the body, or both, including the use of examination and treatment by manipulation, adjustment, and mobilization of a joint. No chiropractor may practice obstetrics or treat communicable diseases. The requirements of this section do not apply to those licensed pursuant to chapter 36-4.

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ENTITLED, An Act to require a bachelor's degree for persons applying for a chiropractic license.**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

Section 1. That § 36-5-8 be amended to read as follows:

36-5-8. Any person is eligible for examination who is a high school graduate and who has satisfactorily completed two years of preprofessional study in a liberal arts or science course at any college or university approved by the Board of Examiners and who is a graduate of a chiropractic school approved by the Board of Examiners or will be a graduate of a chiropractic school approved by the Board of Examiners within ninety days after taking the examination. Such chiropractic school shall require at a minimum for graduation a period of actual attendance equivalent to the standard four-year course, teaching adequate courses in the basic sciences and all subjects pertaining to the practice of chiropractic. The minimum requirements for licensure of any person graduating on or after January 1, 2011 shall be a baccalaureate degree in addition to a doctor of chiropractic degree. The baccalaureate degree may be granted by an accredited undergraduate program or by a chiro-

**SOUTH DAKOTA BOARD OF CHIROPRACTIC
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**We're on the web at
[www.state.sd.us/
doh/chiropractic](http://www.state.sd.us/doh/chiropractic)**

TEXAS INSTRUMENT ETHICS QUICK TEST

- Is the action legal?
- Does it comply with our values?
- If you do it, will you feel bad?
- How will it look in the newspaper?
- If you know its wrong, don't do it!
- If you're not sure ask.
- Keep asking until you get an answer.

Reprinted from FCLB presentation of Leadership and Ethics Role of Regulatory Boards

2007 BOARD OF EXAMINERS MEETINGS

March 24, 2007—Chamberlain

June 1,2—Canistota

September 14,15—Pierre

November 30-December 1—Canistota

**THE EMAIL ADDRESS FOR THE BOARD OFFICE
HAS CHANGED—PLEASE UPDATE YOUR AD-
DRESS BOOK TO:**

sdbce@iw.net

THANK YOU!